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PART - VII
GOVERNMENT OF MEGHALAYA
ORDERS BY THE GOVERNOR

NOTIFICATION

The 6th July, 2011.

No.POL.113/2010/190.—The following Notification S.O. 1268 dated 1st June, 2011 issued by the Government of India in the matter of Hynniewtre National Liberation Council (HNLC) of Meghalaya is republished for general information.

B. DHAR,
Secretary to the Govt. of Meghalaya,
Political Department.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 1st June, 2011.

S.O.1268(E).—In terms of Section 4(4) of the Unlawful Activities (Prevention) Act, 1967, the order of the Tribunal presided over by the Hon'ble Mr. Justice Rajiv Sahai Endlaw, Judge Delhi High Court, to whom a reference was made under Section 4 (1) of the Unlawful Activities (Prevention) Act, 1967 for adjudicating whether or not there is sufficient cause for declaring the Hynniewtre National Liberation Council (HNLC) organization of Meghalaya as unlawful is published for general information.

[F.No.11011/56/2010-NE.III]

SHAMBHU SINGH, Jt. Secy.,

BEFORE HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW JUDGE, DELHI HIGH COURT, NEW DELHI THE
UNLAWFUL, ACTIVITIES (PREVENTION) TRIBUNAL.

INRE:

NOTIFICATION NO. S.O. 2792 (E) DATED 16th NOVEMBER 2010 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI IN EXERCISE OF POWERS UNDER SECTION 3(1) OF THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967 DECLARING HYNNIETREP NATIONAL LIBERATION COUNCIL OF MEGHALAYA AS AN UNLAWFUL ASSOCIATIONS.

ORDER

13-05-2011

1. By a Notification No. S.O. 2792 (E) dated 16th November, 2010 issued in exercise of powers under Section 3 (I) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter called the Act), the Central Government declared that it was of the opinion that, the Hynnietrep National Liberation Council (hereinafter called HNLC) of Meghalaya along with all its factions, wings and front organizations are unlawful association. The grounds, within the meaning of Section 3 (2) of the Act for issuance of the Notification, as set out in the Notification are as under :

A. That HNLC:

- (i) Has been openly declaring as its objective the secession of the State of Meghalaya from the Indian Union.
- (ii) Has been employing and engaging in armed means to achieve their objective.
- (iii) Has been indulging in acts of intimidation and extortion for collection of funds for their organizations;
- (iv) Has been maintaining links with other insurgent groups of the North Eastern Region for carrying out extortion and intimidation;
- (v) Has been maintaining camps in some neighbouring countries for the purpose of sanctuary or training; and
- (vi) Is detrimental to the sovereignty and integrity of India.

B. That if activities of HNLC are not immediately curbed and controlled, the said HNLC would regroup and rearm itself, expand its cadres, procure sophisticated weapons, cause heavy loss of lives of civilians and Security Forces, and accelerate its anti- national activities;

C. That it is necessary to declare the HNLC alongwith all its factions, wings and front organizations as unlawful associations with immediate effect.

2. By another Notification No. S.O. 2934 (E) dated 13th December, 2010 in terms of Section 5 (1) of the Act, the Tribunal consisting of the undersigned was constituted for the purposes of adjudicating, whether or not there is sufficient cause for declaring HNLC as an Unlawful Association.

3. The reference under Section 4 (1) of the Act of the Notification under Section 3 (1) (supra) was made on 21st December, 2010 *vide* letter bearing No.11011/56/2010-NE-II dated 21st December, 2010 of Mr. R.R. Jha, Joint Secretary (NE.II) Ministry of Home Affairs, Government of India, sent to the Tribunal along with two Notifications aforesaid and a brief resume regarding the aim/objectives and violent activities of HNLC. The aforesaid documents were directed by the Registrar of the Tribunal to be placed before the undersigned on 23rd December, 2010 when Mr. A.S. Chandhiok, learned Additional Solicitor General on behalf of the Union of India and Mr. Ranjan Mukherjee, Advocate on behalf of the State of Meghalaya also appeared.

4. On 23rd December, 2010, notice under Section 4(2) of the Act was ordered to be issued to HNLC to show cause, within 30 days, as to why it be not declared unlawful. The notice was directed to be served on HNLC, (i) by affixation of a copy of the Notification on some conspicuous part of the office(s), if any of HNLC; (ii) by serving a copy of the Notification, wherever possible, on the principal Office bearers of HNLC; (iii) by

proclaiming by beat of drums or by means of loudspeakers, the contents of the notification in the area in which the activities of HNLC are ordinarily carried on; (iv) by making an announcement over the radio from the local or nearest broadcasting station of the All India Radio (v) by pasting the notification on the Notice Board of the Office of the Deputy Commissioners at the headquarters of each of the seven districts in the State of Meghalaya; and, (vi) by publication in a National Newspaper in English and in one vernacular newspaper of the respective States in which the activities of the HNLC are ordinarily carried on. The Central Government was directed to make necessary and adequate arrangements for service of the notice. The notice as aforesaid, under signature of Registrar of Tribunal was issued for 28th January, 2011 at 4:00 p.m.

5. Shri Shambhu Singh, Joint Secretary to the Government of India, Ministry of Home Affairs filed an affidavit dated 27th January, 2011 certifying the factum of service of the notice aforesaid issued by various modes as directed. According to the affidavit, the Notification dated 16th November, 2010 (supra) was forwarded to the Chief Secretary, Government of Meghalaya for taking further necessary action in terms of Section 3(4) of the Act; that the Notification was republished in the Official Gazette of State of Meghalaya and subsequently also published in some of the local newspapers; the notice was also served, by publication in the local newspapers on 8th January, 2011, by broadcasting on All India Radio, Shillong, by telecast through the Doordarshan Kendra, Shillong and also by affixing/hanging on the Notice Board of the Office of the Deputy Commissioners of East Khasi Hills District, Ri Bhoi District, Nongpoh, West Khasi Hills District and East Garo Hills, Williamnagar of the State.

6. On 28th January, 2011, on the basis of the material produced of service of notice as aforesaid, I was satisfied that notice had been duly served. However, none appeared for HNLC. The learned ASG for the Union of India and the counsel for the State of Meghalaya sought time to file evidence by way of affidavits and which was allowed and the matter was adjourned to 17th February, 2011 at Delhi for further consideration. On suggestion of the counsel for the State of Meghalaya that to allow local participation if any, the witnesses be examined at Shillong, the examination of witnesses was scheduled on 25th and 26th February, 2011 at Hotel Pine Wood at Shillong at 10:30 a.m. in the morning. The State counsel was directed to publish the time and place of hearing by all modes as directed earlier, to enable local participation, if any.

7. On 17th February, 2011 the counsel for the State produced an affidavit of Shri B. Dhar, Secretary to Government of Meghalaya, Political Department, Shillong, Meghalaya regarding compliance of the directions as to publication of the time and place of hearing. An affidavit on merits was also produced and on request the time for producing the remaining affidavits was extended till 25th February, 2011. The counsel for the State also informed that owing to certain exigencies Hotel Pine Wood, Shillong was not available for hearing on 25th and 26th February, 2011. Accordingly, the venue of hearing was changed to Hotel Polo Tower, Shillong and direction issued for notifying the change of venue of hearing in the manner as earlier ordered.

8. The next hearing of the Tribunal was held at Shillong on 25th February, 2011 as ordered. The counsel for the State Government informed that the change of venue of hearing had been published as directed and sought time to produce affidavit of compliance on the next date i.e. 26th February, 2011. None appeared for HNLC on 25th and 26th February, 2011 also and being satisfied of notice having been issued to HNLC, need was not felt to await further and the counsel for the State directed to produce his witnesses. The counsel informed that the State intended to produce nine witnesses.

9. During the hearing on 25th February, 2011 five witnesses of the State were examined and the matter was adjourned to 26th February, 2011 for examination of other witnesses.

10. On 26th February, 2011 the counsel for the State produced an affidavit of compliance of the order dated 17th February, 2011 regarding service of notice of the change of venue; the remaining four witnesses of the State were examined and the State of Meghalaya closed its evidence. The counsel for the Central Government stated that only one witness was to be examined and permission was granted to examine the said witness at Delhi and the proceedings at Shillong were accordingly closed.

11. The Central Government on 4th April, 2011 examined Mr. J. P. N. Singh Director, Ministry of Corporate Affairs, Government of India as its witness and closed its evidence. However, the State of Meghalaya sought and was allowed to examine additional witnesses.

12. On 25th April, 2011, the State of Meghalaya examined six additional witnesses and again closed the evidence. Arguments were heard from the learned ASG and the State of Meghalaya on 29th April, 2011, 2nd May, 2011 and 4th May, 2011 and 10th May, 2011. HNLC remained *ex parte* throughout the proceedings.

13. According to the brief resume forwarded along with the reference :

- A. The HNLC was formed in 1992 with the aim of liberation of Hynniewtrep people (Khasi and Jaintia tribes) from the authoritarian rule of the Indian Government, protect the Khasis and other Meghalaya tribes from exploitation, retain the indigenous culture and to eradicate social evils. It also vows to fight against any attempt to divide Khasi society.
- B. HNLC continues to indulge in intimidation and extortion. On 27th January, 2010, Meghalaya Police arrested Alex Hahshah a hardcore HNLC cadre along with 8 other HNLC cadres from West Khasi Hills district of Meghalaya. The police seized arms and ammunition from the arrested cadres of the outfit. On April 6, 2010 HNLC served a demand of Rs. 30 lakhs to Kim Marbaniang, Proprietor of Kun Hyundai Shillong. On 27th May, 2010, Border Security Force (BSF) apprehended Pariston Pakyntein, Self Styled Sergeant Major, HNLC. During the interrogation Pariston Pakyntein admitted he along with his associates had kidnapped one Phershal Kongwang on 16th December, 2007 and took him to Bangladesh where he was killed. He also admitted that on 22nd February, 2009 he along with his associates had gone to Mawriang village to settle scores with Shri Trop Suting who refused to pay extortion money demanded by the outfit on 31st January, 2009. Shri Kular Suting the son of Shri Trop Suting was shot by the outfit critically injuring him.
- C. HNLC has been opposing uranium mining in Meghalaya. On January 10, 2008, the outfit declared that it would not spare any organization or individual supporting uranium mining, as the ore was the 'rightful property' of the Hynniewtrep people and not of India. The outfit has also been opposing Independence Day celebrations. The outfit called 36 hours bandh w.e.f. 6 p.m. on August 14, 2010 in Khasi Hills, Jaintia Hills and Ri-Bhoi district in protest against celebration of Independence Day 2010. The outfit had also called a 24 hrs. bandh on 14th August, 2009 to protest against Independence Day celebrations.
- D. HNLC continues to maintain links with the National Democratic Front of Bodoland (NDFB), National Liberation Front of Tripura (Biswamohan Debbarma) and National Socialist Council of Nagaland (Isak -Muviah) [NSCN (I/M)]. According to available information, the outfit has camps/shelters in Bangladesh, and its top leaders, Bobby Marwein, Self Styled Commander in Chief and Cheristerfiled Thangkhiw, Self Styled General Secretary, continue to operate from Bangladesh.
- E. HNLC is primarily operating in Khasi Hills of Meghalaya. The HNLC is estimated to have about 50 to 60 cadres. The outfit at present is estimated to possess about 20 weapons including AK series rifles, Light Machine Guns and Rifles.
- F. In the background of the activities of HNLC as given in preceding paragraphs, HNLC has been declared 'unlawful association' for a period of two years beyond 15th November, 2010 on the following grounds:
 - (i) Openly declared objective of HNLC for secession of areas in the State of Meghalaya largely inhabited by Khasi and Jaintia Tribals from India;
 - (ii) Continued intimidation and extortion of civilian population by HNLC for collection of funds for their organization;
 - (iii) Maintaining links with other insurgent groups of the North Eastern region for carrying out acts of extortion and intimidation;
 - (iv) Maintenance of camps in Bangladesh for the purpose of sanctuary and training of their cadres.
- G. The activities of the HNLC are continuing, and it was felt that if there were any delay in extension of the notification, this organization may take undue advantage of the situation and mobilize its cadres for escalating secessionist, subversive and violent activities. It may also provide an opportunity to

the leadership of this organization to openly propagate anti-national activities in collusion with foreign elements inimical to India's security concerns. The Police and the Security Forces in such an eventuality will also find it difficult to detain and prosecute the members or cadres of the outfit. It was, therefore, considered necessary to extend the notification banning HNLC for a further period of two years from the date of its publication in the Official Gazette.

- H. Government of Meghalaya, Ministry of Defence, Intelligence Bureau, Cabinet Secretariat (Research and Analysis Wing), Central Reserve Police Force and Border Security Force had recommended the continuance of declaration of the HNLC as an 'unlawful association'.

14. The sole witness of the Central Government has deposed:

- A. that HNLC was formed in 1992 with the aim of liberation of Hynniewtrep people (Khasi and Jaintia tribes) from the authoritarian rule of the Indian Government;
- B. that its present office-bearers are Shri Bobby Marwein (Self Styled Commander in Chief) and Shri Cheristerfiled Thangkhiew (Self Styled General Secretary);
- C. that HNLC works towards the objective of destruction of nationalism and accession of State of Meghalaya from Indian Union;
- D. that for achieving the said objective, HNLC has been engaging in armed struggle, intimidating civilians and collecting funds from them;
- E. that HNLC continues to maintain links with other unlawful associations namely National Democratic Front of Bodoland (NDFB) and the National Liberation Front of Tripura (NLFT) and also with National Socialist Council of Nagaland (Isak - Muviah) [NSCN (I/M)], a militant outfit of Nagaland;
- F. that top leaders of HNLC to avoid arrest maintained camps/shelters in Bangladesh;
- G. that HNLC has been opposing Uranium mining in Meghalaya claiming it to be property of Hynniewtrep people and not of India and threatening those involved in the same;
- H. that HNLC has been opposing the national day (Republic Day & Independence Day) celebrations of India;
- I. that the Central Government had received inputs and information from intelligence and State agencies and State Government of Meghalaya of the unlawful activities and activists of HNLC;
- J. that these reports/inputs are privileged and confidential in nature and cannot be made available to HNLC or to any third party as the Government considered it against the public interest to disclose these reports;
- K. that the activities are clandestine in nature and thus the source of inputs of the outfit's unlawful activities as natural corollary are required to be kept confidential.

15. The said witness, during his deposition, handed over a sealed envelope containing the information on the basis whereof *inter alia* the Notification dated 16th November, 2010 was issued. The said sealed envelope has been opened and the contents thereof perused. It is found to contain reports from various officials, required and expected in the course of performance of their official duty to keep track of the activities of unlawful association within the meaning of the Act aforesaid and to otherwise safeguard the integrity and sovereignty of India, of HNLC rendering active support to NSCN (I/M) and of aiming to liberate the Hynniewtrep i.e. Khasi and Jaintia population of the State from the authoritarian rule of the Indian Government and of continuing to terrorize other citizens of the State including for the purposes of collecting funds to achieve their objective. The said documents also disclose that HNLC has been threatening that it would not allow Uranium mining, claiming the same to be the property of Hynniewtrep people and not of India. There are reports of links of HNLC with NDFB, NLFT/B also. The officers concerned with keeping a watch on the security of India have reported that HNLC has an anti-national ideology. There are yet further intelligence inputs of HNLC being still in a position to regroup and support subversive activities despite arrest/surrender of some of its leaders. There are yet further reports of HNLC having not responded positively to the offer of the Government of Meghalaya for peace talks.

16. The witness of the Central Government has further deposed.
- A. that HNLC, to achieve its objectives *inter alia* of secession of the State of Meghalaya from the Indian Union has been engaging in armed struggle and have been intimidating civilian and extorting funds from them;
 - B. that its operations are now primarily confined to Khasi Hills and it still has about 52-60 cadres and possess AK series rifles, Light Machine Guns and Rifles;
 - C. that Notifications declaring HNLC as unlawful were issued in the year 2000, 2002, 2004, 2006, 2008 also and the Tribunals constituted from time to time have been upholding the said declarations but despite the declarations, HNLC has continued its unlawful activities;
 - D. that the continuation of the declaration of HNLC as an unlawful association is felt necessary to prevent HNLC from escalating secessionists, subversive, terrorist and violent activities and lifting of the ban would provide opportunity to the leadership of HNLC to openly propagate anti-national activities in collusion with foreign powers inimical to India's security concern;
 - E. that the Police and Security Forces without the ban find it difficult to detain and prosecute the members of HNLC apprehended by them.
17. The witness of the Central Government has also proved the order dated 12th May, 2005 of the Tribunal constituted pursuant to the Notification dated 16th November, 2004; the order dated 14th May, 2007 of the Tribunal constituted pursuant to the Notification dated 16th November, 2006; and the order dated 14th May, 2009 of the Tribunal constituted pursuant to the Notification dated 16th November, 2008. HNLC remained *exparte* in each case.
18. The witness of the Central Government has thus deposed that there was sufficient reason and material for the Central Government to form an opinion within the meaning of Section 3(1) of the Act that the activities of HNLC continue to be detrimental to the peace and internal security of India and fresh declaration of HNLC as an unlawful association for another two years.
19. The Secretary to the Government of Meghalaya, Political Department appearing as SW -1 :
- A. has deposed that HNLC through various Press releases has been calling for bandh and non-cooperation on every National Day celebrations i.e. Republic Day and Independence Day celebrations;
 - B. has proved as Ex. SW - 1/1 to SW -1/6 the Press reports, of calls given by Shri Sainkumar Nongtraw, Publicity Secretary of HNLC on the occasion of Independence Day and Republic Day of India during the years 2009-2010, to protest against the celebration of the Indian National days "within the territory of Hynniewtrep Nation" for the reason that when India achieved its independence the "Standstill Agreement" assuring independence to Hynniewtrep people stood broken; he has further deposed that the said calls result in cancellation of trains etc.;
 - C. has also proved the call given by HNLC for bandh to pretest the visit of Home Minister of India to the State of Meghalaya on 19th December, 2009 for the reason of the Union Home Minister of India ruling the Hynniewtrep people through "illegal subjugation" in areas which were leased to the British for a long time and to protest against the forceful occupation by India of Hynniewtrep land;
 - D. has deposed of the links of HNLC with ULFA, NDFB, NSCN(IM) & NLFT other unlawful associations;
 - E. has also deposed that owing to the declaration of HNLC in the past as an unlawful association, the Police has been able to effectively curtail the activities of HNLC and which has also led to at least 180 members of HNLC to surrender;
 - F. has deposed that unless the declaration of HNLC as an unlawful association is extended, the Police would be severely handicapped in further controlling the unlawful activities of HNLC.
20. Evidence of the activities of HNLC in the West Khasi Hills District of the State of Meghalaya has been

given by Shri Silvester Kharlyngdoh, Dy. Commissioner of the District appearing as SW-2, Dr. N. Rajamarthandan, Superintendent of Police of the District appearing as SW-3 and by Mr. Amit Raj Deep, Sub-Inspector of the District appearing as SW-12. They have:

- A. deposed that HNLC is still active in the District and engaging in illegal and extortion activities to raise the funds for its unlawful aims and objectives;
- B. deposed that HNLC has been subverting and disrupting the sovereignty and territorial integrity of India and extorting money from mostly in Pormodar, Nongjri and Borsora areas in the District.
- C. proved as Ex.SW-2/2 to Ex. SW-2/7 the FIRs of the illegal activities of the members/cadres of HNLC;
- D. proved as Ex.SW-2/9 the Press report of an e-mailed statement issued by Shri Sainkumar Nongtraw, spokesperson of the HNLC to "fight with arms towards the freedom of Hynniewtrep people in the Hynniewtrep land";
- E. deposed that the bans are called to defy the sovereignty of India and create a fear psychosis in the population and to incite the people not to submit to the Government of India and to defy the Government of India;
- F. deposed that HNLC indulges in extortion of money from business communities to purchase arms for themselves to take up an armed rebellion to secede from the territory of India;
- G. deposed that HNLC cadres target those who abide by the laws of India, in an attempt to prevent them from obeying the laws of India;
- H. in response to Tribunal question, deposed that the FIRs proved by them were at the stage of investigation and sanction for prosecution.
- I. proved the FIRs of the offence of extortion by Shri Alex Hashah core member of HNLC and of his arrest along with eight supporters and a cache of arms, mobile phones with several sim cards;
- J. deposed that owing to the bandh calls given by HNLC, most people of the District anticipating trouble remain indoor and by repeatedly disrupting the National celebrations HNLC is endeavouring to achieve its objective of secession;
- K. deposed about the links and nexus of HNLC with NSCN (IM) and NLFT and that they together cause a serious threat to the sovereignty, territorial integrity and internal and external security of the country;
- L. have deposed that HNLC by indulging in such activities spreads a message that governance in the West Khasi Hills District is not by the Government of the State but by them and that the Government is unable to effect development in the region.

21. Evidence of the activities of HNLC in the East Khasi Hills District of the State of Meghalaya has been given by Shri Jopthiaw Lyngdoh, Deputy Commissioner of the District appearing as SW-4, Mr. M. Kharkrang, Superintendent of Police of the District appearing as SW-5, Mr. Matiush Ch. Sangma, Sub-Inspector of the District appearing as SW-13 and Mr. Jeffrey W. Suting, Sub-Inspector of the District appearing as SW-14. They have:

- A. deposed about the unlawful, nefarious and, anti-national activities of HNLC in the said District on the same lines as the witnesses aforesaid;
- B. deposed of the incident of two weeks prior to the date of deposition on 25th February, 2011 when five persons belonging to NDFB were apprehended in Ri-Bhoi District and during interrogation admitted their linkage to Mr. Bobby Marwein of HNLC hiding in Bangladesh;
- C. on the basis of records maintained in the said District deposed that HNLC is acting for independence of 'Hynniewtrep Land' with no connection with India and have proved as Ex.SW-5/2 a pamphlet circulated by HNLC in the District in February, 2009 in which HNLC has demanded freedom from

Indian colonialism, imperialism and chauvinism and demanded a separate nation for Hynniewtrep people;

- D. proved the statement recorded on 20th May, 2009 of Shri Phikerlang Majaw @ San, one of the cadres of HNLC who had surrendered. As per the said statement, there were 200 cadres of HNLC and who were trained in foot and arms drills, handling of arms like AK-47, SLR, 303 rifles etc. and camps of HNLC in Chittagong Hill Tract together with the camps of other unlawful/terrorist organizations like NDFB, NLFT, KYKL;
- E. proved as Ex.S W-5/4, the statement recorded on 7th August, 2009 of another HNLC cadre member viz. Shri Imlang Byrjuh Marwein @ Small who had also surrendered in the East Khasi Hills District. He has also deposed about the training camps held by HNLC for its cadres to teach them to handle arms like AK-47, Sniper Rifle, 303 Rifle and of collecting money from the villagers of Nongsteng and Mawphew for onward transmission to HNLC cadres in Bangladesh;
- F. proved the FIRs Ex.S W-5/6, Ex.S W-5/7, Ex.S W-5/8 & Ex.S W-5/9 registered in December, 2009 and May, 2010 with respect to the offences of extortion, causing grievous hurt against HNLC cadre members;
- G. proved the bandh calls otherwise given by HNLC cadres in the District;
- H. deposed of having learnt on the basis of intelligence inputs, of HNLC Still maintaining good relations with other anti-national insurgent groups of the States of North Eastern India like the United Liberation Front of Asom (ULF A), the National Socialist Council of Nagalim (NSCN), the National Democratic Front of Bodoland (NDFB) and the National Liberation Front of Tripura (NLFT);
- I. deposed that the principle object of HNLC is to form a sovereign 'Khasi Hills State' independent of the Union of India and of the offences being committed by its members to collect money for achieving the said object and to subvert the sovereignty of India;
- J. deposed that a few days before the deposition on 25th February, 2011, HNLC had given a demand note for Rs. 50,00,000/- to one of the civilians in the District;
- K. on Tribunal question, informed that action on the basis of FIRs registered was being taken and in one case charge sheet had been filed and the other cases were at the stage of investigation.

22. Evidence of the activities of HNLC in the Jaintia Hills District of the State of Meghalaya has been given by Mr. T. Dkhar, Deputy Commissioner of the District, appearing as S W-6, Mr. O. Passi, Superintendent of Police of the District appearing as SW-7 and Mr. Q. E. Pale, Sub-Inspector of the District appearing as SW-15. They have:

- A. similarly deposed of HNLC being still active;
- B. proved the FIR dated 5th August, 2010 with respect to the offences committed by HNLC and its cadres as Ex. SW-6/2;
- G. in response to the Tribunal question, deposed that HNLC calls bandh to stop the people from celebrating days of national importance in India and the said bandh calls did meet with partial success;
- D. deposed of arrest of two members of HNLC who were attempting to enforce the bandh call given on the occasion of Republic Day of the year 2011;
- E. deposed that the main objective of HNLC was secession from India;
- F. deposed of recovery of huge quantity of arms to be used to disturb the Independence Day celebrations and proved the seizure memo and the statement recorded of the accused in this regard.

23. Evidence of the activities of HNLC in the Ri-Bhoi District of the State of Meghalaya has been given by Mr. Mawshan Kharmujai, Deputy Commissioner of the District appearing as S W-8, Smti.C. A. Lyngwa, Superintendent of Police of the District appearing as SW-9, Mr. M. Koch, Sub-Inspector of Police of the District appearing as SW-10 and Mr. E.D. Manar, Sub-Inspector of the District appearing as SW-11. They have :

- A. proved arrest on 4th September, 2010 of Mr. Emanson Maring @ Freddy @ Bah Hep and the statement made by him during interrogation of the training camps for HNLC cadre in weaponry and of hiding in Bangladesh after committing offences in India and of the meeting held of HNLC cadres in Bangladesh during the month of December, 2010/first week of January, 2011 and of joint operations of HNLC with NDFB;
- B. proved as Ex. SW-10/2 the FIR dated 10th February, 2011 and proved the statement made by Mr. Lachit Boro as Ex. SW-10/6. The said Mr. Lachit Boro has similarly deposed of the anti-national activities of HNLC of which he was a cadre member;
- C. proved as SW-11/13 the FIR dated 15th February, 2011 and also proved the statements of the arrested cadres of HNLC and a reading where of similarly proves the anti-national activities indulged by HNLC members.

24. On the basis of the aforesaid material and evidence, it has to be adjudicated whether the opinion formed by the Government of India is justified or not and whether the Notification declaring HNLC as an unlawful association is. tenable in law and whether to confirm the declaration or cancel it.

25. The nature of these proceedings and the procedure to be applied therein has been discussed in detail in paras 85 to 88 of the Report dated 14th May, 2007 of the Tribunal constituted earlier in pursuance to the earlier Notification under the Act with respect to HNLC and as such need is not felt to reiterate the position in law. It was concluded that inherently the proceedings are not in the nature of the trial and the Tribunal is to only enquire broadly whether an Association has to be declared as unlawful. Reliance was placed on *Jamaat-E-Islami Hind Vs. Union of India* (1995) 1 SCC 428 to observe that the Tribunal's procedure should be fair and reasonable because its decision has the likelihood of restraining the fundamental right to association though for a limited period. It was held that the adjudicatory process required to be followed is not a trial and the procedure has to be like an enquiry aimed at gathering material needed to form a conclusion. *Qua* procedure, it was held that as far as possible, the provisions of the Indian Evidence Act, 1872 have to be followed, however having regard to the nature of the proceedings and likelihood of sensitive nature of material likely to be disclosed during the proceedings before it, the Tribunal is not hidebound by rules of evidence and has to follow them in spirit.

26. The definition of unlawful activities under Section 2(o) of the Act was amended so as to incorporate (i), (ii) and (iii) and by addition of the expression "or". The amendment of this definition clause has significantly changed the scope of the expression 'unlawful activity'. In the pre-amended definition clause, both the ingredients of (i) and (ii) ought to be satisfied while under the amended clause, in the event either of the three clauses mentioned under Sub-section (o) of Section 2 are satisfied, it would be an 'unlawful activity'. "Any individual or association" "which causes or is intended to cause disaffection against India", would be an "Individual" or an "association" involved in an unlawful activity. "Disaffection" has been explained to be including disloyalty and all feelings of enmity. It is the species of disaffection and people are disaffected to the Government. In simple words, it is a manner of challenging the administration by unlawful means. In giving this expression a wide meaning, a Bench of Calcutta High Court in the case of "Saptaha" a Bengali B-Weekly Newspaper and in the matter of Benoy Chattopadhyaya AIR 1950 Calcutta 445 held as under:

"The word 'disaffection' signifies political alienation or discontent, that is to say, a feeling of disloyalty to the existing Government, which tends to a disposition not to obey, but to resist and subvert the Government."

27. Section 2(p) defines 'unlawful association' as any association "which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which members undertake any unlawful activity". The Legislature intended to give this defining sub-section a wider meaning and interpretation, that is the precise sense as to why words like "encourages", "aids" have been used in the Section. Even if an association has for its object any activity which is punishable under Section 153A or 153B of the Indian

Penal Code, or the members of which undertake such activity, would be an 'unlawful association'. There is no occasion for the Tribunal to give it a restricted interpretation/ meaning. In any case, the afore-noted activities of HNLC are an open challenge to the sovereign power of the State, their unlawful activities including causing fear psychosis in the minds of the public, by extortion of money, abduction, murder and attack on security forces and interference with exploitation of mineral wealth are the clear indications of the attempt on the part of these associations to hinder the State Administration by unlawful and illegal means. HNLC is found to be still i.e. after the last Notification of the year 2008 involved in disrupting sovereignty and integrity of India, procuring of weapons, infringing the borders of the Union of India, keeping their contacts with other banned organizations and unlawful associations in and outside the territorial limits of Indian Territory.

28. In the case of *Union of India and Ors. Vs. Sukumar Sengupta & Ors.* AIR 1990 SC 1692 sovereignty was described by the Court as a quality of right, a bundle of rights and that it depends on the facts and circumstances of each case. The complexities of modern developed societies need amicable and peaceful settlement of national and international disputes and the expression sovereignty and independence had to be modified, keeping in view the developments. It being a bundle of rights, obligation of the State to protect members of its Society is placed on a higher pedestal. Casual principles of settled law thus, require the interpretation of unlawful assemblies and unlawful activities in that direction. If the members of such unlawful association terrorize the common man on the road and create a law and order problem for normal administration by the different State organs with the aims aforesaid, would not only be intending but actually disrupting the sovereignty and territorial integrity of India.

29. Explaining the importance of the concept of sovereignty, the Supreme Court in the case of *Synthetics and Chemicals Ltd. and Ors. vs. State of U. P. and Ors.* (1990) 1 SCC 109, held that "it is the exercise of Sovereign power which gives the State sufficient authority to enact any law subject to the limitations of the Constitution to discharge its functions. The Indian State, between the Centre and the States, has sovereign power. The Sovereign power is plenary and inherent in every sovereign State to do all things which promote the health, peace, morals, education and good order of the people. This power of sovereignty is, however subject to Constitutional Limitations."

30. The above enunciated principles of law indicate that the expression "sovereignty" is to be given a meaning which is understood in common parlance and is certainly an expression of wide dimensions. The object of powers of sovereignty is ultimately for the welfare of the people of the State. So to perform its functions of that kind without disruption, unlawful impediments and threat from an association; or a group of persons would infringe the very basic fundamentals of democratic system.

31. The depositions of all the witnesses on behalf of State, of Meghalaya show that HNLC continues to be active and functions in East and West Khasi Hills Districts, Jaintia Hills District and Ri- Bhoi District. According to the witnesses on behalf of the State of Meghalaya, it also maintains active links with banned organizations such as NSCN, ULFA, NDFB, KNV and NLFT etc. There have been some incidents where HNLC's cadres were arrested or surrendered which led to recovery of weapons. The evidence further points to HNLC holding out threats to the people in 2009 and 2010 and preventing them from participating in national celebrations for Republic Day and Independence Day. Additionally, the witnesses deposed that HNLC wants a separate State for Hynniewtrep People outside the territory of India. According to these witnesses, who include the Deputy Commissioners, Superintendent of Police and the Investigation Officers of the FIRs registered with respect to unlawful activities of HNLC of the four Districts, the top leadership of HNLC is based outside the Indian border, in Bangladesh, HNLC also seeks the help of other associations declared unlawful for training and resource building etc.

32. The analysis of un rebutted evidence shows that HNLC is an organization committed to achieving a separate or independent State for the Hynniewtrep people outside India and to that end it seeks to achieve the objective through acts of violence. These acts of violence include attacks on police personnel, use of sophisticated and illegal weapons, repeated acts exhorting the people not to attend national day celebrations, etc. The evidence also points to HNLC maintaining contacts and link with other organizations that have been declared unlawful or as Terrorist Organizations under Section 2(p) (m) and Section 35 of the Act, in the Schedule to the Act. Its leadership is in Bangladesh where they have camps to train cadres and where apparently they flee after committing acts of kidnapping, extortion and other acts of violence.

33. A common thread appears to run through evidence led with respect to the four Districts the objective appears to be to intimidate the people, disrupt normal functioning and undermine economic activity through extortions and kidnapping. The incidents where repeatedly HNLC has held out threats against people to prevent and intimidate them from participating in national celebrations coupled with declaring the mineral wealth of the country namely Uranium as belonging to Hynniewtrep people, display its commitment to pursue the path of violence to achieve the end of a separate State through Armed struggle and violence. This clearly establishes that its activities do not have any lawful aim but are meant to undermine and disrupt the sovereignty and territorial integrity of India.

34. On the basis of the evidence led and material placed on record, I am satisfied that HNLC carries on unlawful activities which are detrimental and intended to disrupt the territorial integrity of India. I am further satisfied that notwithstanding the arrest and surrender of several of the cadre members of HNLC, it continues to be active and engaged in disruptive activities detrimental to the territorial integrity of India.

35. In view of the above discussion and after considering all the materials on records this Tribunal is of the opinion that sufficient materials have been shown by the Union of India and the State of Meghalaya to confirm the Notification under Section 3(1).

36. I am therefore of the considered view that sufficient cause exists for declaring HNLC as an unlawful association. Accordingly, in accordance with Section 4(3) of the Act, this Tribunal hereby confirms the Notification No. 2792(E), dated 16th November, 2010 declaring 'Hynniewtrep National Liberation Council' as unlawful Association in tenus of Section 3(1) of the Act.

37. The entire record of the proceedings of the Tribunal, including the sealed envelope which has been re-sealed, be submitted along with this order to the Central Government.

JUSTICE RAJIV SAHAIENDLAW,

Unlawful Activities (Prevention) Tribunal.

Dated : 13th May, 2011.